



Town of Southern Shores

5375 N. Virginia Dare Trail, Southern Shores, NC 27949

Phone 252-261-2394 / Fax 252-255-0876

info@southernshores-nc.gov

www.southernshores-nc.gov

Ordinance 2009-08-01

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE TOWN OF SOUTHERN SHORES

ARTICLE I. Purpose(s) and Authority.

WHEREAS, the Town of Southern Shores (the "Town") may enact and amend ordinances to protect the health, safety, and welfare of its citizens under North Carolina General Statutes § 160A-174; and

WHEREAS, the Town may enact and amend ordinances regulating the zoning and development of land within its jurisdiction under North Carolina General Statutes § 160A-381; and

WHEREAS, the Town may regulate the use and construction of wireless telecommunications sites, towers and facilities within its jurisdiction under North Carolina General Statutes §§ 160A-400.50 – 400.53; and

WHEREAS, the Town Council for the Town of Southern Shores (the "Town Council") finds that telecommunications and in particular cellular telephone communications are an integral part of today's society and will continue to be an integral part of society including the lives of the citizens of the Town; and

WHEREAS, the Town Council finds that wireless telecommunications sites including antennae, towers and other structures may potentially endanger the citizens and visitors of the Town or damage the aesthetics and historical nature of the Town unless regulated; and

WHEREAS, the Town Council finds that it is in the interest of the public's health, safety, morals and general welfare that the Town's Zoning Ordinance be amended as stated below.

ARTICLE II. Construction.

For purposes of this Ordinance, underlined words (underline) shall be considered as additions to existing Town Code language and strikethrough words (~~strikethrough~~) shall be considered deletions to existing language. Any portions of the adopted Town Code which are not repeated herein, but are instead replaced by a "..." shall remain as they currently exist within the Town Code.

ARTICLE III. Amendment of Zoning Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Town Council that the Town's Code of Ordinances shall be amended as follows:

PART I. That Chapter 36 Section 36-202 be amended as follows:

(b) *Permitted uses.* The following uses shall be permitted by right:

...

(8) Collocated wireless facilities permitted to use streamlined processing in compliance with Section 36-175(b).

...

(c) *Conditional uses permitted.* The following uses are permitted subject to the requirements of this district and such additional regulations and requirements as may be imposed by the town council as provided in article X of this chapter:

...

(6) Wireless telecommunications sites in compliance with Section 36-175.

PART II. That Chapter 36 Section 36-205 be amended as follows:

(b) *Permitted uses.* The following uses shall be permitted by right:

...

(4) Collocated wireless facilities permitted to use streamlined processing in compliance with Section 36-175(b).

...

(c) *Conditional uses permitted.* The following uses are permitted subject to the requirements of this district and such additional regulations and requirements as may be imposed by the town council as provided in article X of this chapter:

...

(6) ~~Telecommunication array and accessory equipment~~ Wireless facilities on publicly owned water towers, with the approval of the public entity which owns the water tower and in accordance with section 36-207(e)(8)b and e in compliance with the requirements and conditions of Section 36-175.

(7) Wireless telecommunications sites in compliance with Section 36-175.

PART III. That Chapter 36 Section 36-206 be amended as follows:

(b) *Permitted uses.* The following uses shall be permitted by right:

...

(7) Collocated wireless facilities permitted to use streamlined processing in compliance with Section 36-175(b).

...

(c) *Conditional uses permitted.* The following uses are permitted subject to the requirements of this district and such additional regulations and requirements as may be imposed by the town council as provided in article X of this chapter: ~~community recreation facilities, including golf courses, tennis courts, community centers, libraries, picnic areas, and concessions integral thereto, provided that there is no open commercial activity, and no sign other than a directional noncommercial sign is allowed.~~

...

(1) Community recreation facilities, including golf courses, tennis courts, community centers, libraries, picnic areas, and concessions integral thereto, provided that there is

no open commercial activity, and no sign other than a directional noncommercial sign is allowed.

(2) Wireless telecommunications sites in compliance with Section 36-175.

PART IV. That Chapter 36 Section 36-207(b) be amended as follows:

(b) *Permitted uses.* The following uses shall be permitted by right:

...

(8) Collocated wireless facilities permitted to use streamlined processing in compliance with Section 36-175(b).

...

PART V. That Chapter 36 Section 36-207(c)(8) and all of its subsections be replaced in their entirety with the following:

(8) Wireless telecommunications sites in compliance with Section 36-175.

...

PART VI. That Chapter 36 Section 36-57 be amended as follows:

Sec. 36-57. Definition of specific terms and words.

...

~~Collocation of telecommunication antennas means the siting of two or more providers' wireless communication antennas on the same telecommunication tower.~~

Communications tower, municipal and fire station means a customary accessory structure to a fire station or municipal building consisting of a tower 80 feet or less in height measured from ground level to the highest point which provides emergency, municipal, fire and/or police communications services only and serving as an accessory structure to either a fire station or municipal building.

...

~~Geographic antenna coverage area means the general vicinity within which an antenna serves the transmission requirements of a cellular or other broadcasting network.~~

...

~~Telecommunications accessory equipment structure means a building or cabinet-like structure located adjacent to, or in the immediate vicinity of a wireless telecommunications tower or antenna to house equipment incidental to the receiving or transmitting of wireless broadcasts, cellular telephone calls, voice messaging and paging services.~~

~~Telecommunication tower means a freestanding structure intended to support one (1) or more telecommunication antennas.~~

...

~~Tower, monopole means a slender self supporting tower used to support telecommunications equipment.~~

...

PART VII. That Chapter 36 Section 36-175 be added as follows.

Sec. 36-175. Wireless telecommunications sites and towers.

(a) Definitions. The following definitions shall apply to all portions of the Town Code relating to the use or construction of any portion of a wireless telecommunications site within the town.

(1) Antenna: Communications equipment that transmits and receives electromagnetic radio signals used in the provision of all types of wireless communications services.

(2) Application: A formal request submitted to the city to construct or modify a wireless support structure or a wireless facility.

(3) Building permit: An official administrative authorization issued by the city prior to beginning construction consistent with the provisions of NC G.S. 160A-417.

(4) Collocation: The installation of new wireless facilities on previously-approved structures, including towers, buildings, utility poles, and water tanks.

(5) Equipment enclosure: An enclosed structure, cabinet, or shelter used to contain radio or other equipment necessary for the transmission or reception of wireless communication signals.

(6) Fall zone: The area in which a wireless support structure may be expected to fall in the event of a structural failure, as measured by engineering standards.

(7) Geographic antenna coverage area: The general vicinity within which an antenna serves the transmission requirements of a cellular or other broadcasting network.

(8) Land development regulation: Any ordinance enacted pursuant to this Part.

(9) Monopole: A slender self-supporting telecommunications tower consisting of a single pole.

(10) Search ring: The area within which a wireless facility must be located in order to meet service objectives of the wireless service provider using the wireless facility or wireless support structure.

(11) Stealth Structure: A wireless support structure designed to look like or incorporated within a structure which has a primary purpose as something other than a wireless support structure or is otherwise designed in a manner in which all wireless facilities attached to the structure are concealed from view, including, but not limited to trees, flag poles, slick sticks (flag poles without flags), clock towers, bell towers or church steeples.

(12) Telecommunications accessory equipment structure: A building or cabinet-like structure located adjacent to, or in the immediate vicinity of a wireless support structure or antenna to house equipment incidental to the receiving or transmitting of wireless broadcasts, cellular telephone calls, voice messaging and paging services.

(13) Tower, short telecommunications: A telecommunications tower with a height that is less than seventy (70) feet.

(14) Tower, tall telecommunications: A telecommunications tower with a height that is seventy (70) feet tall or greater up to a height of one hundred ninety five (195) feet tall.

(15) Tower, telecommunication: A freestanding wireless support structure, including stealth structures which are not incorporated within another type of structure, which are intended to support one (1) or more wireless facilities.

(16) Utility pole: A structure that is designed for and used to carry lines, cables, or wires for telephone, cable television, or electricity, or to provide lighting.

(17) Wireless facility: The set of equipment and network components, exclusive of the underlying support structure or tower, including antennas, transmitters, receivers base stations, power supplies, cabling, and associated equipment necessary to provide wireless data and telecommunications services to a discrete geographic area.

(18) Wireless support structure: A new or existing structure, such as a monopole, lattice tower, or guyed tower that is designed to support or capable of supporting wireless facilities. A utility pole is not a wireless support structure.

(19) Wireless telecommunications site: The combination of all of the materials and equipment on a site used to provide wireless telecommunications service including, but not limited to, any wireless support structures, telecommunications towers, wireless facilities, antennae, ground based communications equipment, telecommunications accessory equipment structures and equipment enclosures.

(b) Streamlined Collocation Procedures. Applications for collocation entitled to streamlined processing under this section shall be reviewed for conformance with applicable site plan and building permit requirements, but shall not otherwise be subject to zoning requirements, including design or placement requirements, or public hearing review. To be entitled to streamlined collocation procedures an applicant must meet the requirements of subsection (1), subsection (2) or subsection (3). Otherwise, applications for collocation shall be treated as an application for a new wireless telecommunication site, telecommunication tower or wireless facility.

(1) An application for collocation meets the requirements entitling an applicant to streamlined collocation procedures if the addition of the additional wireless facility does not exceed the number of wireless facilities previously approved for the wireless support structure on which the collocation is proposed and meets all the requirements and conditions of the original approval. This provision applies to wireless support structures which are approved on or after December 1, 2007.

(2) An application for collocation meets the requirements entitling an applicant to streamlined collocation procedures if all of the following conditions exist:

(a) The collocation does not increase the overall height or width of the tower or wireless support structure to which the wireless facilities are to be attached. The overall height and width of a tower shall be measured at the highest and widest points of the existing wireless support structure including all antennae and other equipment mounted on the structure.

- (b) The collocation does not increase the ground space area approved in the site plan for equipment enclosures and ancillary facilities.
- (c) The wireless facilities in the proposed collocation comply with applicable regulations, restrictions, or conditions, if any, applied to the initial wireless facilities placed on the tower or other wireless support structure.
- (d) The additional wireless facilities comply with all federal, State and local safety requirements including accepted industry standards for wind loading, base stabilization and other critical engineering characteristics as defined by American National Standards Institute (ANSI), Telecommunications Industry Association (TIA) and Electronic Industry Alliance (EIA) 222-G or its successors..
- (e) The collocation does not exceed the applicable weight limits for the wireless support structure as certified by a professional engineer registered in North Carolina, unless the applicant provides plans prepared and certified by a professional engineer registered in North Carolina depicting structural modifications that would sufficiently increase the structural capacity of the wireless support structure.
- (3) An application for collocation meets the requirements entitling an applicant to streamlined collocation procedures if the applicant is requesting only the collocation of emergency service antennas used by the town's police department and/or fire service provider and the wireless structure has sufficient structural capacity to support the antennae being collocated without substantial modifications.
- (4) An application for collocation is complete when all the necessary grounds stated in this section for entitlement to streamlined processing have been certified to by the applicant in writing or forty five (45) days after its submittal to the town if the town has not provided the applicant with written notice identifying the deficiencies in the application which, if cured, would make the application complete. The application shall be deemed complete on resubmission if the additional materials cure the deficiencies identified.
- (5) The town shall issue a written decision approving or denying an application entitled to streamlined processing within forty five (45) days of the date the application is complete. Failure to issue such a decision shall be deemed an approval of the application.
- (c) *Requirements for wireless telecommunications sites.* All wireless telecommunications sites located within the town must comply with all of the following requirements:

 - (1) *Safety standards.* All proposed telecommunication towers and wireless facilities shall comply with all applicable federal, state and local laws including specifically the following:

 - (a) *Federal Communications Commission standards, rules and regulations*
 - (b) *Federal Aviation Administration standards, rules and regulations*

(c) N.C.G.S. § 160-400.50 et seq.

(d) The North Carolina Building Code

(e) Accepted industry standards for wind loading, base stabilization and other critical engineering characteristics as defined by American National Standards Institute (ANSI), Telecommunications Industry Association (TIA) and Electronic Industry Alliance (EIA) 222-G or its successors.

(2) Use guidelines and dimensional requirements.

(a) Permissible Uses. Wireless telecommunications sites and facilities shall only be permitted as follows:

(i) As an accessory use to an existing primary use that is not a dwelling.

(ii) As a collocation of wireless facilities upon an existing permitted wireless telecommunications site.

(b) Collocation.

(i) Collocation of new antennas, wireless facilities and other equipment on an existing structure or structures within the applicant's search ring shall be required whenever reasonably feasible. Collocation is not reasonably feasible if an applicant can show it is technically or commercially impractical for the applicant to collocate or if the owners of all of the telecommunication towers within the applicant's search ring where collocation would be technically practical are unwilling to enter into a contract for such use at fair market value.

(ii) Short telecommunications towers including the structure and fenced compound shall be designed to accommodate the wireless facilities of at least one (1) provider plus space for emergency communication antennas used by the town's police and fire service provider.

(iii) Tall telecommunications towers including the structure and fenced compound shall be designed to accommodate collocation of the wireless facilities of at least three (3) providers plus space for emergency communication antennas used by the town's police and fire service provider.

(c) Location.

(i) Tall telecommunications towers shall not be located within one half (1/2) mile of any other tall telecommunications tower or within two hundred fifty (250) feet of any other wireless support structure located within the expected geographic antenna coverage area of the proposed telecommunication tower.

(ii) Short telecommunications towers and stealth structures incorporated within another structure shall not be located within two hundred fifty

(250) feet of any other wireless support structure located within the expected geographic antenna coverage area of the proposed wireless support structure unless the applicant can show that locating the structure within the prescribed distance is necessary to insure adequate coverage and capacity. In the case of a stealth structure incorporated within another structure, the town council may reduce or disregard the distance requirement stated herein.

(d) Height. The height of a wireless support structure includes any attached or proposed to be attached wireless facilities and shall be measured vertically from the pre-disturbance ground level at the center of the structure. The height shall not include emergency communications antennas or lightning rod(s) attached to the structure.

(i) In no case shall a wireless support structure of any kind or any attached wireless facilities exceed one hundred ninety five (195) feet in height.

(ii) The height of tall telecommunications towers shall not exceed one hundred ninety five (195) feet.

(ii) The height of short telecommunications towers shall not exceed seventy (70) feet.

(iii) The height of stealth structures incorporated within or upon an otherwise permitted structure shall not exceed the height allowed for the structure.

(iv) The height of stealth structures designed to look like another structure or naturally occurring thing, i.e. a tree, shall not unreasonably exceed the height allowed for the type of structure or the typical thing they are designed to look like. The reasonableness of excess height shall be considered on an application by application basis and shall take into account the totality of the circumstances including specifically, the height needed to provide communications services and the wireless support structure's visual consistency with the area in which it will be located.

(iv) In no case shall a wireless support structure of any kind or any attached wireless facilities exceed the minimum height necessary to accomplish the purpose it is proposed to serve. Notwithstanding the foregoing, when measuring the height of a wireless support structure, the purpose of the structure may include maximizing the ability for collocations upon the structure and shall include ensuring that the structure is capable of supporting at least the minimum number of collocations required by this ordinance.

(c) Permitted structures. Stand alone wireless support structures and pole-like stealth structures shall be monopoles. Stealth structures designed to look like other structures or naturally occurring things, i.e. a tree, or that are incorporated within or upon any existing or permitted structure are allowed if otherwise consistent with this ordinance. Wireless support structures using other designs,

including, but not limited to guyed towers and lattice type towers shall not be permitted.

(d) Setbacks.

(i) Unless otherwise provided by this ordinance, the dimensions of the entire lot shall be used to determine if a wireless telecommunications site meets the dimensional and setback requirements of this section. An existing use or structure on the same lot shall not preclude locating a wireless telecommunications site on a lot so long as compliance with subsection 36-175(2)(a) is maintained.

(ii) The base of a wireless support structure shall be located at least one (1) foot from the nearest property line for every one (1) foot of proposed height. In the case of stand alone stealth structures only, the town council may in its discretion consider publicly maintained roadways as providing additional property for calculation of set backs and/or reduce the setback requirement from this 1:1 setback ratio to a setback of 1/3 of the height of the proposed structure. The 1:1 setback requirement may only be reduced to 1/3 of the height of the proposed structure when a North Carolina registered professional engineer certifies that the wireless support structure's fall zone is equal to or less than the setback requested and that the structure is designed to collapse within the setback requested provided any or all of the following are also shown by the applicant:

(1) No dwelling unit is located or can be constructed within the fall zone of the wireless support structure; or

(2) Where a dwelling unit is located or can be constructed within the fall zone of the wireless support structure, all property owners within the fall zone have agreed in writing or through sworn testimony that they are willing to accept the risks of the reduced setback.

(iii) When stealth structures are incorporated within or upon an existing or otherwise permitted structure, the setbacks associated with the structure shall apply.

(iii) Telecommunications accessory equipment structures, any equipment enclosures and any other structures shall be set back a minimum of fifty (50) feet from all property lines and rights of way. Where visual impact and public safety concerns will not be affected, the town council may reduce the setback to no less than fifteen (15) feet.

(e) General aesthetics.

(i) Telecommunication towers, wireless facilities, accessory equipment structures and equipment enclosures shall be constructed and maintained to minimize visual obtrusiveness in color and finish. Stealth structures

shall be consistent with the overall appearance of the town and of the area of town in which they are located.

(ii) Accessory equipment structures, equipment enclosures and related structures at telecommunication tower sites shall be of such design, materials and colors to blend with surrounding structures.

(iii) Outdoor storage of equipment or related items shall be prohibited at all wireless telecommunication sites.

(iv) Electrical and telephone lines serving a wireless telecommunication site shall be installed underground from the point of existing service.

(v) Sound emissions, such as alarm bells, buzzers and the like, shall not be permitted. Nothing contained herein shall prohibit the reasonable use of emergency generators at wireless telecommunications sites.

(f) *Fencing.* All telecommunication towers, their accessory equipment structures and equipment enclosures shall be enclosed by chain link fencing, not less than six (6) feet nor more than ten (10) feet in height. Such fences may be equipped with anti-climbing devices. The gate into the fenced area shall be located so that it is not easily visible from a street or adjacent property.

(g) *Screening/landscaping and buffers.*

(i) The base of a wireless support structure, to a minimum height of ten (10) feet above average grade at the tower base, shall not be visible from any publicly owned or maintained roadway.

(ii) Screening is required along all exterior sides of the fence described above excluding the gate. Screening shall be a minimum width of ten (10) feet with two (2) staggered rows of planting material placed ten (10) feet on center, that are a minimum of five (5) feet in height when planted, and that are expected to reach a height of eight (8) feet within three (3) years. Suitable plant types shall be those recommended by the U.S. Department of Agriculture to achieve a mature growth height of eight (8) to ten (10) feet in the coastal area. The town council may waive or modify this requirement where existing trees, vegetation and/or structures provide suitable screening and buffering.

(h) *Lighting.*

(i) Telecommunication towers shall be lighted only if specifically required by the Federal Aviation Administration, in which case, Federal Aviation Administration minimum lighting requirements shall be applied.

(ii) When lighting is required by the Federal Aviation Administration, strobe lights shall be avoided unless specified by Federal Aviation Administration. When strobe lights are required on telecommunication towers, a dual lighting system of white strobes for daytime lighting and a red flashing light atop the tower for nighttime lighting shall be used unless

other lighting is specifically required by the Federal Aviation Administration, the U.S. Fish and Wildlife Service or any state or federal agency having regulatory authority over the applicant.

(iii) Except for lighting described in (ii) above, all lighting at a wireless telecommunications site shall be shielded and shall comply with the provisions for outdoor lighting contained in section 36-166.

(i) Signage. Wireless telecommunication sites shall not display signage, logos symbols or any messages of a commercial or non-commercial nature. A sign, not visible from a public right-of-way or adjacent residences, shall be posted on the fence gate identifying the current owner of the tower, emergency contact person or agency, and applicable contact numbers. This provision shall not preclude the applicant from posting any additional signage required by federal or state law.

(3) Application requirements. An application shall not be deemed complete until all of the following items required have been submitted:

(a) Documentation showing the reasonable feasibility of collocating new antennas, wireless facilities and equipment on an existing structure or structures within the applicant's search ring. If an applicant contends that collocation on an existing structure is not reasonably feasible he shall submit documentation that (1) collocation is technically or commercially impractical; or (2) the owner of the telecommunication tower is unwilling to enter into a contract for such use at fair market value. At a minimum, technical documentation shall include a map of the search ring displaying all potential collocation sites and stating why each is suitable or unsuitable. Where an applicant contends that the owner or an existing wireless support structure or other feasible structure will not contract for its use for fair market value, the applicant must submit, in writing (1) a declaration from owners of all technically feasible collocation sites stating the price at which they are willing to negotiate space; (2) evidence that the applicant has tried in good faith to negotiate market value terms for the collocation at each site and (3) an licensed appraiser's certified opinion on the market value of collocation at each technically feasible collocation site.

(b) A scaled site plan, scaled elevation view, and supporting drawings, calculations and other documentation, prepared and sealed by appropriate licensed professionals, showing the location and dimensions of all improvements for the wireless telecommunications site including topography, wireless supports structure height requirements, setbacks, access driveways or easements, parking, fencing, landscaping, adjacent uses and any other information necessary to assess compliance with this article and compatibility with surrounding uses.

(c) Documentation that Federal Aviation Administration's minimum lighting standards have been met for the wireless telecommunications site.

(d) Documentation that the proposed wireless telecommunications site will comply with all applicable FCC rules and regulations.

(e) Documentation, prepared and sealed by a professional engineer registered in North Carolina, that the proposed wireless support structure and any attached

wireless facilities and antennae meet or exceed accepted industry standards for wind loading, base stabilization and other critical engineering characteristics required by this ordinance, the North Carolina Building Code and the accepted industry standards for wind loading, base stabilization and other critical engineering characteristics as defined by American National Standards Institute (ANSI), Telecommunications Industry Association (TIA) and Electronic Industry Alliance (EIA) 222-G or its successors.

(f) Documentation, prepared and sealed by a professional engineer registered in North Carolina, that the proposed wireless support structure and any attached wireless facilities and antennas do not exceed the minimum height necessary to accomplish the purpose for which they are constructed.

(g) Documentation, prepared and sealed by a professional engineer registered in North Carolina, stating the number of collocations that the proposed wireless support structure is designed to accommodate once constructed.

(h) Documentation, prepared and sealed by a professional engineer registered in North Carolina, to demonstrate that the wireless support structure has sufficient structural integrity for its intended uses. Documentation shall include a certification that all wireless support structures and attached wireless facilities shall be capable of withstanding sustained winds of at least one hundred thirty five (135) miles per hour whether or not all of the collocations the structure has been designed to accommodate have been attached to the structure.

(i) If the proposed wireless telecommunications site is to be located on lands owned by a party other than the applicant or the town, a copy of the lease agreement with the property owner along with copies of any easement agreements necessary for ingress, egress and use of the property.

(j) Documentation consisting of a certificate of insurance verifying the existence of general liability insurance coverage of at least five million dollars (\$5,000,000.00) at no cost to the town. The certificate shall contain a requirement that the insurance company notify the town thirty (30) days prior to the cancellation, modification, or failure to renew the insurance coverage required.

(k) A copy of the approved National Environmental Policy Act of 1969 (NEPA) compliance report for all wireless support structures, antennas, wireless facilities, accessory structures or equipment proposed for the site, if such report is required to be produced pursuant to federal or state law.

(l) Documentation from the town's police and fire service providers regarding the number and type of emergency communication antennas which are necessary for the wireless telecommunications site to support such communications along with a certification from a professional engineer registered in North Carolina stating that the wireless telecommunications site is designed to support the attachment of the necessary emergency communication antennas.

(m) A memorandum of understanding regarding removal of abandoned structures and equipment located at the proposed wireless telecommunication site. Any wireless telecommunications site that is not operated for one hundred eighty

(180) continuous days in a twelve (12) month period shall be considered abandoned. The owner of an abandoned wireless telecommunications site shall be responsible for the removal of all structures and equipment on the site within ninety (90) days of receipt of such notification by the town. Failure to remove abandoned equipment will result in its removal by the town at the owner's expense. In its discretion, the town may condition approval of a permit for building of the proposed wireless support structure on the applicant providing a bond or letter of credit sufficient to allow the town to remove the proposed structure if it is abandoned and not removed within the allowed time period by the applicant.

(n) Any other documentation necessary to ensure compliance with this section as well as applicable federal and state laws.

(4) Review process. The Town will use the following criteria in its review of an application for any wireless telecommunication site, telecommunication tower, wireless facility, antennae or accessory structure.

(a) The use will not materially endanger the public health, safety or welfare if located where proposed and developed according to the plan submitted.

(c) The required conditions, specifications, and actions described in this article have been met.

(d) The location and character of the facility will be in harmony with the area in which it is to be located.

(6) Consultants. The Town may fix and charge an application fee, consulting fee, or other fee associated with the submission, review, processing, and approval of an application to site or modify wireless support structures or wireless facilities that is based on the costs of the services provided and does not exceed what is usual and customary for such services. Any charges or fees assessed by the Town on account of an outside consultant shall be fixed in advance and incorporated into a permit or application fee and shall be based on the reasonable costs to be incurred by the town in connection with the regulatory review of an application. The town may impose additional reasonable and cost based fees for costs incurred should an applicant amend its application. On request, the amount of the consultant charges incorporated into the permit or application fee shall be separately identified and disclosed to the applicant.

(7) Conditions. The Town Council may place reasonable conditions on the issuance of a conditional use permit pursuant to this section regarding public safety, land use, or zoning issues, including, but not limited to, aesthetics, landscaping, land-use based location priorities, structural design, setbacks, and fall zones.

(d) Annual Review. Any person who holds a zoning or conditional use permit issued pursuant to this section shall annually submit an application for a renewal permit.

(1) Procedure. In order for a zoning or conditional use permit to remain valid, a renewal permit must be issued within three hundred sixty five (365) days of the issuance of the certificate of occupancy related to the initial permit or of the date of the issuance of the previous annual renewal permit. The application for a renewal permit must be received

no less than ten (10) days prior to nor more than thirty (30) days prior to the date a renewal permit must be issued. Upon review of the application and determination of the applicant's compliance with the annual review requirements of this section the town's code enforcement and inspections department shall issue a renewal permit for an additional three hundred sixty five (365) day period. A permit holder's renewal application packet must include all of the following:

(a) A renewal application fee in the amount set by the Town.

(b) A complete renewal application presented on a form prepared and provided by the town's code enforcement and inspections department.

(c) Documentation consisting of a certificate of insurance verifying the continued existence of general liability insurance coverage meeting or exceeding the requirements of section 36-175(c)(3)(j) during the time period that the renewal permit will be valid.

(d) Documentation signed and sealed by a North Carolina registered engineer indicating that all structures and equipment have remained in compliance with all local, state, and federal requirements, including but not limited to, the requirements of this ordinance at the time the original permit was issued and any requirements or conditions stated in the original permit.

(2) *Noncompliance.* Upon a permit holder's failure to submit a timely renewal application or the permit holder's failure to otherwise comply with this section the previously issued permit and/or renewal permit shall be suspended upon reaching the date that a renewal permit must be issued. Once suspended, the permit shall remain suspended until the permit holder submits an application and a review of the application by the town's code enforcement and inspections departments determines that the permit holder has complied with the annual review requirements of this section. Upon such a showing, the town shall issue a renewal permit for an additional three hundred sixty five (365) day period. If a suspension continues for more than thirty (30) days, the permit holder's existing permit and/or renewal permit(s) shall expire.

(e) *Validity of Permits.* A conditional use permit or zoning permit issued pursuant to this section shall expire if the improvements permitted are not completely constructed within twenty four (24) months of the date of the approval of a building permit.

(f) *Waiver or Modification of Requirements:* If upon the review of any application submitted pursuant to this section, the town council determines that denial of a permit based on any requirement or requirements of this section as applied to the application before the town council may be contrary to federal or state law, the town council may in its sole discretion vary, modify or disregard any such requirement in a manner which complies with the relevant law. The town council may continue any public hearing on a permit application for a reasonable time to consider such a determination and its actions thereon.

ARTICLE IV. Severability.

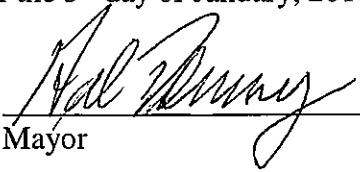
All Ordinances or parts of Ordinances in conflict with this Ordinance are hereby repealed. Should a court of competent jurisdiction declare this Ordinance or any part thereof to be invalid, such decision shall not affect the remaining provisions of this Ordinance nor the Zoning

Ordinance of the Town of Southern Shores, North Carolina which shall remain in full force and effect.

ARTICLE V. Effective Date.

This ordinance shall be in full force and effect from and after the 5th day of January, 2010.

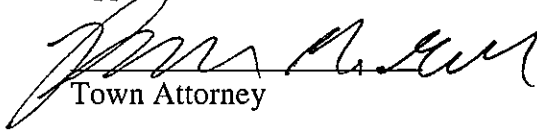



Mayor

Date: 01/05/2010

Vote: 4 Ayes 1 Nay

Approved as to form:


Town Attorney

DATE OF FINAL RECOMMENDATION BY PLANNING BOARD: DECEMBER 1, 2009

DATE(S) ADVERTISED: OCTOBER 22 & 29, 2009 AND DECEMBER 17 & DECEMBER 24, 2009

NAME OF NEWSPAPER: COASTLAND TIMES

DATE OF PUBLIC HEARING: NOVEMBER 4, 2009

DATE OF PUBLIC HEARING: JANUARY 5, 2010